



[SEC File No. 270-652, OMB Control No. 3235-0699]

**Proposed Collection; Comment Request; Extension: Rule 18a-2**

Upon Written Request, Copies Available From:  
Securities and Exchange Commission  
Office of FOIA Services  
100 F Street, NE  
Washington, DC 20549-2736

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (“PRA”) (44 U.S.C. 3501 et seq.), the Securities and Exchange Commission (“Commission”) is soliciting comments on the existing collection of information provided for in Rule 18a-2 (17 CFR 240.18a-2), under the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) (“Exchange Act”). The Commission plans to submit this existing collection of information to the Office of Management and Budget (“OMB”) for extension and approval.

Rule 18a-2 establishes capital requirements for nonbank major security-based swap participants that are also not registered as broker-dealers (“nonbank MSBSPs”). In particular, a nonbank MSBSP is required at all times to have and maintain positive tangible net worth.

Under Rule 18a-2, nonbank MSBSPs also need to comply with Exchange Act Rule 15c3-4 (17 CFR 240.15c3-4), which requires OTC derivatives dealers and other firms subject to its provisions to establish, document, and maintain a system of internal risk management controls to assist the firm in managing the risk associated with its business activities, including market, credit, leverage, liquidity, legal, and operational risks.

The staff previously estimated that 5 or fewer nonbank entities would register with the Commission as MSBSPs. The staff continues to estimate that 5 or fewer nonbank entities will register with the Commission as MSBSPs, although currently no such entities have registered. These nonbank MSBSPs will be required to establish, document, and regularly review and update risk management control systems with respect to market, credit, leverage, liquidity, legal and operational risks. Based on similar estimates for OTC derivatives dealers, the Commission

staff believes that each nonbank MSBSP will spend approximately 2,000 hours to implement its risk management control system, resulting in a one-time industry-wide hour burden of approximately 10,000 recordkeeping hours, or approximately 3,333 hours per year when annualized over 3 years.<sup>1</sup>

Based on similar estimates for OTC derivatives dealers, the staff further estimates that each of these firms will spend approximately 250 hours per year reviewing and updating its risk management control systems, resulting in an ongoing annual industry-wide hour burden of approximately 1,250 recordkeeping hours per year.<sup>2</sup>

Taken together, the total industry-wide recordkeeping hour burden is approximately 4,583 hours per year.<sup>3</sup>

Because nonbank MSBSPs may not initially have the systems or expertise internally to meet the risk management requirements of Rule 18a-2, these firms will likely hire an outside risk management consultant to assist them in implementing their risk management systems. The staff estimates that each firm will hire an outside management consultant for approximately 200 hours at a cost of approximately \$400 per hour, for a one-time external management consulting cost of approximately \$80,000 per respondent, and a total one-time industry management consulting cost of approximately \$400,000, or approximately \$133,333 per year<sup>4</sup> when annualized over 3 years.

Nonbank MSBSPs may incur start-up costs to comply with Rule 18a-2, including information technology costs. The information technology systems of a nonbank MSBSP may be in varying stages of readiness to enable these firms to meet the requirements of Rule 18a-2, so

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<sup>1</sup> 5 MSBSPs x 2,000 hours = 10,000 hours. This one-time burden annualized over a 3-year period is approximately 3,333 hours industry-wide (10,000 hours/3 = 3,333.33 rounded down to 3,333).

<sup>2</sup> 5 MSBSPs x 250 hours/year = 1,250 hours/year.

<sup>3</sup> 2,000 hours/3 years = 3,333.33 + 1,250 hours = 4,583.33 hours rounded down to 4,583.

<sup>4</sup> 5 MSBSPs x 200 hours x \$400/hour = \$400,000. Annualized over three years, this industry-wide burden is approximately \$133,333 per year (\$400,000 / 3 years = \$133,333.33 rounded down to \$133,333).

the cost of modifying their information technology systems could vary significantly among firms. Based on estimates for similar collections of information,<sup>5</sup> the Commission staff expects that each nonbank MSBSP will spend an average of approximately \$16,000 for one-time initial hardware and software external expenses, for a total one-time industry-wide external information technology cost of approximately \$80,000, or approximately \$26,667 per year <sup>6</sup> when annualized over 3 years. Based on the estimates for these similar collections of information, the average ongoing external cost to meet the information technology requirements of Rule 18a-2 will be approximately \$20,500 per nonbank MSBSP. This will result in an ongoing annual industry-wide external information technology cost of approximately \$102,500.<sup>7</sup> Taken together, the total industry-wide information technology related cost burden is approximately \$129,167 per year.<sup>8</sup>

Therefore, the total industry-wide recordkeeping cost burden is approximately \$262,500 per year ( $\$133,333 + \$129,167 = \$262,500$ ).

Written comments are invited on: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's estimates of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted by **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION OF THIS NOTICE IN THE FEDERAL REGISTER]**.

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<sup>5</sup> See *Risk Management Controls for Broker or Dealers with Market Access*, Exchange Act Release No. 6321 (Nov. 3, 2010), 75 FR 69792, 69814 (Nov. 15, 2010).

<sup>6</sup>  $5 \text{ MSBSPs} \times \$16,000 / 3 \text{ years} = \$26,666.666$ , rounded up to \$26,667.

<sup>7</sup>  $5 \text{ MSBSP} \times \$20,500 = \$102,500$ .

<sup>8</sup>  $\$80,000 / 3 \text{ years} + \$102,500 = \$129,166.667$  rounded up to \$129,167.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information under the PRA unless it displays a currently valid OMB control number.

Please direct your written comments to: David Bottom, Director/Chief Information Officer, Securities and Exchange Commission, c/o John Pezzullo, 100 F Street, NE, Washington, DC 20549, or send an e-mail to: [PRA\\_Mailbox@sec.gov](mailto:PRA_Mailbox@sec.gov).

Dated: June 22, 2022.

J. Matthew DeLesDernier,  
Assistant Secretary.

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